

THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF VIRGINIA

IN THE MATTER OF THE SEARCH OF THE RESIDENCE OF MIKE CROWE LOCATED AT 3653 DANIELS CREEK ROAD, COLLINSVILLE, VIRGINIA 24078	<u>UNDER SEAL</u> CASE NO. <u>4 : 20mj 19</u>
--	---

AFFIDAVIT IN SUPPORT OF AN APPLICATION
FOR A SEARCH WARRANT

I, Hunter Durham, being first duly sworn, depose and state the following:

INTRODUCTION

1. I make this affidavit in support of an application for a search warrant authorizing the seizure of evidence, which is believed to exist at the premises of Mike Crowe located at 3653 Daniels Creek Road, Collinsville, Virginia 24078 to include the description identified in Attachment A. The place to be searched and the items to be seized are described in detail within the following paragraphs and in Attachments A and B of this affidavit.

2. I am a Special Agent with the U.S. Department of Homeland Security (DHS), Office of Homeland Security Investigations (HSI), currently assigned to the Office of the Special Agent in Charge in Washington D.C. Prior to my career in federal law enforcement, I served as a member of the United States Military uniformed services for 10 years. I have been awarded academic degrees of Bachelor of Arts and Master of Arts focusing in the field of Political Science. I have been employed as a federal Special Agent-Criminal Investigator since 2006. I have experience as the managing case agent for numerous and diverse criminal investigations including but not limited to conspiracies related to drug smuggling and trafficking; federal firearms violations; national security violations; document and identity fraud schemes; financial and money laundering operations; child exploitation and cyber-crime; intellectual property rights crimes; document and identity fraud; fugitive investigations; and criminal alien violations.

3. As part of my duties, I have conducted smuggling investigative techniques as the managing case agent, which include the drafting and execution of numerous search warrants related to such violations. I have also assisted in numerous other investigations as a supporting agent during investigative activities. I have experience in searching for and establishing the location or storage habits of persons engaged in criminal enterprises or activities. I have direct experience in identifying evidence related to illicit business management and transactions.

4. The statements in this affidavit are based on my investigation, experience, training, professional research, background and facts provided to me by other law enforcement officers assisting with this investigation. I reviewed information related to this investigation and have set

forth only the facts I believe are necessary to establish probable cause to believe that evidence, fruits, and instrumentalities of violations of **Title 18, United States Code, Section 2320 (Trafficking in Counterfeit Goods or Services)** will be found in the property to be searched. Specifically, there is probable cause to believe that presently and/or at the time of the execution of this proposed warrant, property amounting to evidence relating to the unlawful trafficking in counterfeit goods will be identified within the place to be searched. Such items expected to be discovered are believed to be, generally:

- A. Property that constitutes evidence of the commission of a criminal offense;
 - B. Contraband, the fruits of the crime, and other things criminally possessed; Property designed and intended for use, and which has been used as a means of committing a criminal offense;
 - C. Evidence assisting in the identification and investigation of other persons engaged in criminal activities;
 - D. Evidence assisting in the identification and protection of possible victims related to this offense;
5. Title 18, United States Code, Section **2320(a)(1)** makes it unlawful for any person to traffic in counterfeit goods and services and to knowingly use a counterfeit mark on or in connection with such goods or services.

IMPORT AND PROPERTY RIGHTS

6. Based upon my knowledge, experience, and training in customs investigations, and the training and experience of other law enforcement officers with whom I have had discussions, there are certain characteristics and behaviors known to law enforcement, which are relevant to this application.

- A. Persons who operate businesses related to imports, aftermarket sales, used or counterfeit items/memorabilia commonly maintain records which include correspondence files, invoices, ledgers, purchase orders, sales confirmations, customer lists and other records. These records are usually kept on-site where the business is conducted for ease of access or retrieval of data for normal business purposes. Also, all importers must maintain records of commodity imports for a period of five years according to Title 19 U.S. Code, Section 1508.
- B. Persons who operate businesses related to imports or counterfeit commodities commonly utilize electronic communications methods and associated software applications including those related to the internet to search for, inquire about, purchase, sell and ship commodities. For this reason, they commonly utilize electronic devices such as smartphones and computers to conduct their online business.
- C. Persons who operate any business, including illicit ones, commonly store data and records related to their businesses on their electronic devices, which includes but is not limited to communications, product information, business contact lists, financial data and sales transactions.

- D. Persons who utilize electronic means, devices and data to operate illicit business commonly secrete, conceal or hide this evidence in personal spaces or otherwise protect it using various forms of encryption.
 - a. They conceal devices on their person, in their homes, workspaces, vehicles, containers or hiding places where they have an expectation of privacy on their personal property.
 - b. They also conceal data within the devices using encryption software, passwords or biometric encryption, deleted, encrypted or other data, which is relevant or evidentiary in nature.
- E. The following information pertains to the intellectual property rights that protect goods from unauthorized duplication or production without the consent of the trademark filing party or owner:
 - a. The World Wrestling Entertainment, Inc. WWE trademark is registered on the principle register of the United States Patent and Trademark Office, registration number 3581281. The trademark's most recent effective date is 2016 and is currently and continuously in use. The WWE trademark is also recorded with the United States Customs and Border Protection under Recordation Number TMK 16-01360. The counterfeit items were seized by CBP pursuant to the authority of 19 U.S.C. 1526(e) for violation of 19 C.F.R. 133.21.
 - b. The NFL Properties, LLC NFL and shield design trademark is registered on the principle register of the United States Patent and Trademark Office, registration number 3056074. The trademark's most recent effective date is 2019 and is currently and continuously in use. The NFL and shield design trademark is also recorded with the United States Customs and Border Protection under Recordation Number TMK 09-00094. The counterfeit items were seized by CBP pursuant to the authority of 19 U.S.C. 1526(e) for violation of 19 C.F.R. 133.21.
 - c. The New England Patriots L.P. Stylized Patriots Head trademark is registered on the principle register of the United States Patent and Trademark Office, registration number 3429547. The trademark's most recent effective date is 2018 and is currently and continuously in use. The New England Patriots L.P. Stylized Patriots Head trademark is also recorded with the United States Customs and Border Protection under Recordation Number TMK 08-00411. The counterfeit items were seized by CBP pursuant to the authority of 19 U.S.C. 1526(e) for violation of 19 C.F.R. 133.21.

BACKGROUND

7. On March 11, 2020, Customs and Border Protection (CBP) officers working at the mail center located at the John F. Kennedy Airport, New York ("JFK") noted the following:

- A. They selected a parcel bearing tracking number 449253108CN for further examination. The

parcel shipped from China and consigned to “Mike Crowe” at 3653 Daniels Creek Road, Collinsville, VA 24078.

- B. CBP officers at JFK examined the shipment pursuant to their border search authority and found 41 sports memorabilia rings.
 - a. Specifically, CBP officers found five (5) Miami Hurricanes Football National Championship rings (1983- Hirsch, 1987-Brown, 1989-McGuire, 1991-Erickson 2002-Boylan), five (5) World Wrestling Entertainment rings (2004 Hall of Fame, 2008 Hall of Fame, 2015 Hall of Fame, 2018 Hall of Fame, and a World Wrestling Champion), eleven (11) NFL Patriots Super Bowl Championship rings (Tom Brady), and twenty (20) NFL Cowboys Super Bowl Championship rings (8-Staubach, 8-Aikman, and 4-Irvin).
- C. CBP officers make determinations based on:
 - a. CBP’s academic training, on the job training, similarities to previous seizures of the same commodity, and the source country.
 - b. Prior to making a final determination as to the authenticity of these rings, CBP officers and Import Specialists look for major and minor discrepancies between counterfeit and authentic replica rings, display cases that ship with the authentic replica rings, and letters of authenticity required when shipped from legitimate sources. Letters of authenticity describe in detail the materials used in the replica ring, the significance of the material to the team, and how closely these materials compare to the real rings. For example, a team might use three diamonds to represent their third Superbowl win. The letter of authenticity would detail the significance and if the manufacturer used real diamonds, cubic zirconia, lab grown diamonds, blood diamonds, etc. The more similarities the replica shares with the real item, the higher the replica’s sales value and significance to the collector.
- D. According to CBP, the 41 sports memorabilia rings contained in the parcel bearing tracking number 449253108CN were counterfeit because:
 - a. The subject rings showed discrepancies with authentic replica rings.
 - b. They did not ship with a display case.
 - c. Were bagged together in a haphazardly fashion.
 - d. They were not accompanied with a letter of authenticity.
 - e. The parcel shipped from an undisclosed manufacturer when the only manufacturers authorized to display the NFL logo are Jostens, Balfour, and Tiffany & Co.
- E. A review of customs records reveals that there are previous import shipments from China destined to 3653 Daniels Creek Road, Collinsville, Virginia and PO Box 114, Ridgeway, Virginia 24078.
 - a. A review of U.S. Postal Service and U.S. Customs records from February 1, 2020 to March 7, 2020 reveals that Crowe has received approximately 33 shipments to his residence from China.

MIKE CROWE AND RESIDENCE

8. The following information is related to Mike Crowe and his residence:
- A. No public listing for a business was identified at address 3653 Daniels Creek Road, Collinsville, VA 24078.
 - B. 3653 Daniels Creek Road, Collinsville, VA 24078 is a residential home, which public GIS records reveal is the address of Mike Crowe.
 - C. Mike Crowe is also associated with address P.O. Box 114, Ridgeway, VA 24148.

ANTICIPATORY CIRCUMSTANCES

9. This application requests anticipatory authorization to conduct a search of the place to be searched as described in Attachment A. Specifically, HSI Agents and other law enforcement officers request permission to execute the warrant obtained as a result of this application under the following condition(s):
- A. On or about Monday, March 23, 2020, HSI Special Agents will attempt the controlled delivery of parcel 449253108CN containing the 41 sports memorabilia rings to 3653 Daniels Creek Road, Collinsville, VA 24078.
 - B. This application will allow law enforcement to execute the warrant if and when:
 - a. a person accepts delivery, possession or control over the package containing the contraband.
 - b. And, the package and contraband are accepted, taken or moved into the place to be searched.
 - C. Upon these circumstances, law enforcement would then enter the residence to recover the contraband and search for additional evidence as authorized in Attachment B.

FORENSIC SEARCHES OF ELECTRONIC DEVICES

10. Based on your affiant's experience, it may be necessary to conduct forensic reviews of electronic devices during the execution of a search warrant or even to remove them for forensic examination and testing by a qualified computer forensic analyst. Your affiant requests permission to conduct forensic searches of devices during the execution of the search warrant or after they have been seized pursuant to this authorization.

BIOMETRIC SEARCHES

11. An additional and anticipatory request is included, based on the probability Crowe will possess an electronic smartphone device equipped with biometric security features, including facial recognition or fingerprint software.

A. If the following conditions are met:

- a. Law enforcement locates electronic devices which are in Crowe's possession or control.
- b. The devices are protected by Crowe's biometric fingerprint or facial recognition profile.

B. Then the court authorizes law enforcement to compel the following actions:

- a. Place Crowe's finger or swipe it across the access reader.
- b. Place the device in front of Crowe's face to allow the facial recognition reader to activate.

C. For the purposes of unlocking a device to perform physical or forensic searches of data within that falls inside the scope of and authorization of this this warrant.

12. Based on the aforementioned information, your affiant respectfully submits that there is probable cause to believe that evidence, fruits, instrumentalities and victim information relating to violations of Title 18, Sections 2320 are located within the place to be searched, at the time of the execution of this warrant.

13. The U.S. District Court for the Western District of Virginia is the court of competent jurisdiction authorized to examine this application, which applies to the place to be searched located within the Western District of Virginia.

Respectfully submitted,

Hunter Durham

Hunter R. Durham
Special Agent
Homeland Security Investigations
Roanoke, Virginia

Sworn and attested to telephonically.

Subscribed and sworn to me by reliable electronic means on the 21st day of March 2020,

Robert S. Ballou

HONORABLE ROBERT S. BALLOU
UNITED STATES MAGISTRATE JUDGE

ATTACHMENT A
THE PLACE TO BE SEARCHED

A residence located at 3653 Daniels Creek Road, Collinsville, VA 24078, the curtilage, outbuildings and vehicles registered to or controlled by Mike Crowe. The primary residence is described as a one-story single-family residence with white siding and charcoal asphalt shingle roof. The building is identified with the number 3653 on the mailbox which is in front of the house at the road.

